

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA**

BRUCE RANDALL MCBRYAR,	)	
	)	
Plaintiff,	)	
	)	Civil Action No.
v.	)	
	)	
WACKER CHEMICAL CORPORATION	)	Removed from the Circuit Court for
AND WACKER POLYSILICON NORTH	)	Bradley County, Tennessee
AMERICA, LLC,	)	Case No. V18633
	)	
Defendants.	)	

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Wacker Chemical Corporation (“WCC”) and Wacker Polysilicon North America, LLC (“WPNA”) (collectively, “Defendants”), hereby remove Case No. V18633, and all claims and causes of action asserted therein, from the Circuit Court for Bradley County, Tennessee, to the United States District Court for the Eastern District of Tennessee at Chattanooga. This removal is based on the grounds that this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because Plaintiff Bruce Randall McBryar and Defendants have complete diversity of citizenship and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

**I. The State Court Action**

1. On November 21, 2018, Plaintiff commenced this action in the Circuit Court for Bradley County, Tennessee, by filing the complaint titled *Bruce Randall McBryar v. Wacker Chemical Corporation, and Wacker Polysilicon North America, LLC*, Case No. V18633 (the “State Court Action”).

2. On December 11, 2018, Defendants were served with the complaint in the State Court Action. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders that were served upon Defendants in the State Court Action are attached as **Exhibit A**.

3. Plaintiff's complaint asserts a single cause of action for negligence, seeking \$2,500,000 in damages.

## **II. This Notice of Removal Is Timely Filed in the Proper Venue**

4. Defendants received a copy of the complaint on or about November 30, 2018. This Notice of Removal is therefore timely filed within 30 days as required by 28 U.S.C. § 1446(b)(1).

5. This Court is the proper place to file this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446(a), because it is the federal district court and division that embraces the place where the original action was filed and is pending. Bradley County is within the Chattanooga (or Southern) Division of the Eastern District of Tennessee.

## **III. Removal Is Proper Because This Court Has Original Subject Matter Jurisdiction**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a), because this is a civil action between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. On information and belief, Plaintiff is a citizen of the State of Georgia. *See Compl., Ex. A., p. 1.*

8. WCC is a corporation organized under the laws of the State of Delaware and has its principal place of business in the State of Michigan. For the purposes of diversity, "a corporation shall be deemed to be a citizen of every State or foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business." 28 U.S.C. § 1332(c).

9. WPNA is a limited-liability company organized under the laws of the State of Tennessee. “When diversity jurisdiction is invoked in a case in which a limited liability company is a party, the court needs to know the citizenship of each member of the company.” *Delay v. Rosenthal Collins Grp., LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009). WPNA’s sole member is WCC, the other Defendant to this action.

10. Because Plaintiff is a citizen of the State of Georgia, and because Defendants are citizens of Delaware and Michigan for diversity purposes, there is complete diversity among the parties as required under 28 U.S.C. §§ 1332(a) and 1441(b).

11. Pursuant to 28 U.S.C. § 1446(c)(2)(B), removal is proper on the basis of an amount in controversy if a court finds, by the preponderance of the evidence, that the amount in controversy exceeds \$75,000.00. Plaintiffs seek \$2,500,000 in damages for the personal injury Plaintiff alleges he suffered. *See Compl., Ex. A.*, p. 5.

#### **IV. Notice of Removal to the Circuit Court for Bradley County, Tennessee**

12. In accordance with 28 U.S.C. § 1446(d), Defendants will promptly give written notice of this Notice of Removal to Plaintiff and will file a copy of this Notice of Removal with the Circuit Court in the State Court Action.

13. Under 28 U.S.C. § 1446(a), Defendants have filed all documents, including process, pleadings, and orders, served on them in the State Court Action as well as all documents filed in the State Court Action. A true and correct index of all documents filed in the State Court Action is filed as **Exhibit B** to this Notice of Removal.

#### **V. Reservation of Rights and Defenses**

14. By filing this Notice of Removal, Defendants do not waive, and in fact expressly reserve, any and all rights and defenses available to them, including without limitation all defenses to the Complaint.

15. Defendants expressly reserve the right to amend or supplement this Notice of Removal, should any aspect of this removal and/or the information set forth herein be challenged.

WHEREFORE, Defendants file this Notice of Removal and remove this civil action to the United States District Court for the Eastern District of Tennessee at Chattanooga.

Respectfully submitted,

**MILLER & MARTIN PLLC**

By: s/ M. Heith Frost

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*Counsel for Defendants*

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed electronically with the Clerk's office by using the CM/ECF system and served electronically and/or via first-class U.S. mail, postage prepaid, upon all counsel as indicated below. Parties may also access this filing through the Court's ECF system.

Joshua Ward  
Massey & Associates, PC  
6400 Lee Highway, Suite 101  
Chattanooga, TN 37421

This 14<sup>th</sup> day of December, 2018.

**MILLER & MARTIN PLLC**

By: s/ M. Heith Frost